IN THE SUPREME COURT OF THE STATE OF KANSAS

Arthur S. Humes, Relator,

v. No. 35,735

Robert Hudspeth, Cecil Shuttleworth and Arthur Hoffman, Respondents.

MOTION TO DISMISS APPEAL

Comes now the respondents, Robert Hudspeth, Cecil Shuttleworth, and Arthur Hoffman, and move the court to dismiss the pretended appeal to this court for the following reasons:

One,—that no appealable question is presented to the court;

Two,—That the attempted appeal was not filed or perfected within the time prescribed by law or the rules of this court;

Three,—that no sufficient notice of appeal nor proof of service of the same has ever been filed herein.

WHEREFORE, respondents pray the court that the pretended appeal be dismissed.

GEORGE H. WEST
George H. West,
United States Attorney,
Topeka, Kansas.
EUGENE W. DAVIS
Eugene W. Davis,
Assistant U. S. Attorney,
Topeka, Kansas.
Attorneys for Robert H. Hudspeth, Cecil Shuttleworth and Arthur Hoffman, Appearing Specially.

ENDORSEMENTS:
No. 35,735
In the Supreme Court
of the State of Kansas
Arthur S. Humes, Relator,
vs.
Robert Hudspeth, Cecil Shuttleworth &
Arthur Hoffman, Respondents.
MOTION TO DISMISS APPEAL
FILED Octo. 3, 1942
E. E. Clark
Clerk Supreme Court.

BE IT FURTHER REMEMBERED, that on the 10th day of November, 1942, there was filed in the office of the Clerk of the Supreme Court of the State of Kansas, an Abstract of the Record, prepared by the appellant herein, a copy of which Abstract of the Record is in the words and figures as follows, to-wit:

(District Court record printed on pages 8 to 16 this book.)

BE IT FURTHER REMEMBERED, that on the 10th day of November, 1942, there was filed in the office of the Clerk of the Supreme Court of the State of Kansas, a Motion of the Appellant for Judgment, a copy of which Motion for Judgment is in the words and figures as follows, to-wit:

IN THE KANSAS SUPREME COURT

Arthur S. Humes, Appellant,

v. No. 35,735

Robert Hudspeth, etc., et al., Appellees.

MOTION FOR JUDGMENT

Comes now the appellant and states that on October 23, 1942, he had summoned the defendant, Robert Hudspeth, to give testimony to be used as a deposition in the above named case, that the said Robert Hudspeth is now making his home part of the time beyond the process of a Kansas Court's, that the aforesaid Robert Hudspeth failed to appear as certified to by Clark A. Thorp, a Notary Public, residing in the County of Leavenworth, and the aforesaid Robert Hudspeth was summoned in the aforesaid County of Leavenworth as certified to by the Sheriff of Leavenworth County.

Mr. Hudspeth's failure to appear seemed to be contrary to the Laws of Kansas as set out as Sec. 60-2821, R. S. Kansas 1935.

Wherefore the appellant prays that as far as appellees' pleadings concern the aforesaid Robert Hudspeth that they be stricken from the files and judgment as prayed in the Petition and Costs to date, be entered against the aforesaid Robert Hudspeth.

ARTHUR S. HUMES,
Arthur S. Humes,
Appellant.

ENDORSEMENTS:
35,735
MOTION FOR JUDGMENT
FILED NOV. 10, 1942
E. E. Clark,
Clerk Supreme Court.

BE IT FURTHER REMEMBERED, that on the 16th day of November, 1942, the same being one of the regular judicial days of the July 1942, term of the

Supreme Court of the State of Kansas, said court being in session in its court room in the city of Topeka, the following proceedings among others was had and remain of record in the words and figures, as follows, to-wit:

IN THE SUPREME COURT OF THE STATE OF KANSAS

Topeka, Monday, November 16, 1942.

Arthur S. Humes, Appellant,

v. No. 35,735

Robert Hudspeth, et al., Appellees.

Now come the appellees and move the court for an order dismissing this appeal and the court being fully advised in the premises, it is ordered that this appeal be dismissed at the cost of the appellant, taxed at $....., and hereof let execution issue.

STATE OF KANSAS } SS.
SUPREME COURT. }

I, E. E. Clark, Clerk of the Supreme Court of the State of Kansas do hereby certify that the above and foregoing pages 1 to 33 inclusive, constitutes a full, true and correct transcript of the record and proceedings had in the case of Arthur S. Humes, Appellant v. Robert Hudspeth, Warden, Cecil Shuttleworth, Senior Associate Warden, Arthur Hoffman, Lieutenant, etc., Appellees, as the same appears of record and on file in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affxed the seal of said Supreme Court, at my office in the city of Topeka, this, 24th day of November, 1942.

(SEAL.

E. E. CLARK,

Clerk of the Supreme Court of the State of Kansas.